

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA M. HELMICK and U.S. POSTAL SERVICE,
POST OFFICE, Milwaukee, WI

*Docket No. 02-1739; Submitted on the Record;
Issued November 8, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has more than a one percent permanent impairment to the right leg.

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a right knee strain, torn medial meniscus, and right knee patellofemoral syndrome causally related to a February 26, 2001 slip and fall while in the performance of duty. By decision dated April 26, 2002, the Office issued a schedule award for a one percent permanent impairment to the right leg. The period of the award was 2.88 weeks of compensation commencing September 24, 2001.

The Board finds that the record does not establish more than a one percent permanent impairment to the right leg.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function.¹ Neither the Act nor the regulations specify the manner in which the percentage of impairment for a schedule award shall be determined. For consistent results and to ensure equal justice for all claimants, the Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the uniform standard applicable to all claimants.²

In this case, the Office accepted a right knee strain, torn medial meniscus, and patellofemoral syndrome. The Board notes that on July 11, 2001 appellant underwent right knee

¹ 5 U.S.C. § 8107. This section enumerates specific members or functions of the body for which a schedule award is payable and the maximum number of weeks of compensation to be paid; additional members of the body are found at 20 C.F.R. § 10.404(a).

² A. George Lampo, 45 ECAB 441 (1994).

arthroscopic surgery. Dr. Mark Wichman, an orthopedic surgeon, indicated in the operative report that the medial meniscus was intact with no medial meniscal pathology. With respect to a permanent impairment, Dr. Wichman stated in a January 4, 2002 report that appellant had sustained a five percent permanent impairment to the right knee. Dr. Wichman did not, however, provide any reference to the A.M.A., *Guides*, or otherwise explain how the percentage of impairment was calculated. The Board notes that the knee itself is not a scheduled member or function of the body under 5 U.S.C. § 8107 or the implementing regulations; the degree of impairment must be calculated with reference to the leg.

The only medical evidence of record that provides an opinion as to the degree of right leg permanent impairment under the A.M.A., *Guides* is a February 4, 2002 report from an Office medical adviser. The medical adviser reviewed the medical evidence, noting that appellant complained of intermittent pain. He also noted that physical examination had demonstrated full range of motion. The medical adviser referred to Table 17-37, which provides impairments due to nerve deficits, and identified the femoral nerve.³ Under Table 17-37, the maximum leg impairment for sensory impairment to the femoral nerve is two percent. The medical adviser graded the impairment as a Grade 3 impairment under Table 16-10,⁴ and concluded that appellant had a one percent sensory impairment. The date of maximum medical improvement was identified as September 24, 2001, the date appellant had been released to work without restrictions.

The Board finds that the Office medical adviser provided a reasoned medical report applying the findings of Dr. Wichman to the A.M.A., *Guides*. There is no probative medical evidence establishing more than a one percent impairment to the leg. 5 U.S.C. § 8107(c)(2) provides a maximum of 288 weeks of compensation for loss of use of the leg; therefore, appellant is entitled to one percent of the maximum, or 2.88 weeks of compensation.

³ A.M.A., *Guides* (5th ed. 2001), 552, Table 17-37.

⁴ *Id.* at 482, Table 16-10. A Grade 3 classification is 26 to 60 percent of the maximum sensory impairment.

The decision of the Office of Workers' Compensation Programs dated April 26, 2002 is affirmed.

Dated, Washington, DC
November 8, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member